IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

Crl.MC.No. 677 of 2007()

CRRP.52/2005 of SESSIONS COURT, KASARAGOD
MC.41/2004 of JUDL. MAGISTRATE OF FIRST CLASS, KASARAGOD

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PETITIONER: REVISION PEITIONER/RESPONDENT

MOHAMMED KUNHI THONIPPALAM,
AGED 42 YEARS, S/O ARABI THONIPPALAM,
FREE KUWAIT QUARTERS, BOVIKKANAM,
KASARAGOD DISTRICT.

BY ADV. SRI.T.K.VIPINDAS
SRI.M.J.THARIAN

RESPONDENTS: RESPONDENTS/PETITIONERS

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1. KHADEEJATH SAIDHA, AGED 28 YEARS,
D/O.Y.ABDUL KHADER, A.K.R.MANZI,
BAVIKKARA KUNNU, MULILYAR, KASARAGOD DISTRICT.

2. MUNAVAR FAIROZ (MINOR), AGED 12 YEARS,
S/O MOHAMMED KUNHI, REPRESENTED BY HIS MOTHER,
KHADEEJATH SAIDHA, A.K.R.MANZIL,
BAVIKKARA KUNNU, MULILYAR, KASARAGOD DISTRICT.

3. FATHIMATH MASNA PARVEEN, AGED 9 YEARS,
D/O MOHAMMED KUNHI, REPRESENTED BY HIS MOTHER,
KHADEEJATH SAIDHA, A.K.R.MANZIL,
BAVIKKARA KUNNU, MULIYAR, KASARAGOD DISTRICT.

4. STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 677 OF 2007

Dated this the 13th day of March, 2007

ORDER

The petitioner has come to this Court to assail the concurrent directions by the learned Magistrate and the learned Sessions Judge to him under Sec.125 of the Cr.P.C. to pay monthly maintenance at the rate of Rs.1,500/-, Rs.1,000/- and Rs.1,000/- respectively to the claimants 1 to 3 – admittedly his wife and children. So far as the 1st claimant is concerned, the direction was issued for payment of monthly maintenance only till 15/2/05 i.e., the date of her divorce as per the decree of court.

2. Marriage is admitted. Paternity is admitted. Separate residence is also admitted. That the petitioner had married again is also not disputed. There was an offer to maintain the 1st claimant – wife, on condition that she lives with the petitioner. There was also a contention that the petitioner does not have sufficient means.

3. The rival contestants examined themselves as P.W.1

and D.W.1. Exts.D1 to D4 series were marked on the side of the petitioner herein.

4. The courts below concurrently came to the conclusion that the claimants are entitled to maintenance from the petitioner. The 1st petitioner/1st claimant was entitled to maintenance only till the date of divorce.

5. The petitioner has come to this Court with this application under Sec.482 of the Cr.P.C. It is prayed that the impugned directions may be set aside or modified invoking the extraordinary inherent powers available to this Court.

6. I have been taken through the impugned orders. I have heard the learned counsel for the petitioner. On the question of liability, there cannot be any worthwhile dispute. Marriage and the paternity are admitted. There was a contention that maintenance was paid directly. That case was not accepted by both courts. I find no reason at this third tier invoking the extraordinary inherent jurisdiction to interfere with that finding.

7. About the quantum of maintenance also, the amounts ordered do appear to me to be absolutely justified. The same is consistent with the needs of the claimants as also the means of the petitioner. At any rate, I find no reason to interfere with the

discretion exercised by the courts below in the matter of fixing quantum.

8. No other contentions are raised. I am satisfied that this Crl.M.C. deserves only dismissal.

9. In the result, this Crl.M.C. is dismissed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge